

**D R A F T**

**PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

**Communications Division  
Carrier Oversight and Programs Branch**

**RESOLUTION T-17197  
May 7, 2009**

**R E S O L U T I O N**

**Resolution T-17196 Conditional Approval of Funding for the Mother Lode Broadband Project of Rapid Link Inc. and Mother Lode Internet from California Advanced Services Fund (CASF) Amounting to \$2,771,341**

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**Summary**

This Resolution adopts conditional funding for the Mother Lode Broadband project of Rapid Link Inc. and Mother Lode Internet (Mother Lode) from the California Advanced Services Fund (CASF) amounting to \$2,771,341 pending Commission approval of and Rapid Link's compliance with, if any, the decision in Application (A.) 09-02-021, an application by Rapid Link to acquire Telenational Communications Inc. (TNC). The amount granted represents 40% of the total project cost of this unserved area application filed in accordance with Resolution T-17143.

**Background**

On December 20, 2007, the Commission approved Decision (D.) 07-12-054 which established the two-year CASF program to provide matching funds of up to 40% of the total project costs for the deployment of broadband infrastructure in unserved and underserved areas in California.<sup>1</sup> Resolution T-17143, approved on June 12, 2008, adopted the application requirements, scoring criteria for the award of funds, and a prescribed timeline for other filings and notifications including a projected Commission Meeting date for final approval of award(s). This same Resolution directed interested applicants, seeking funding for unserved projects, to file their project proposals and funding requests on July 24, 2008. Twenty three (23) project proposals that sought CASF funding for unserved areas were

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<sup>1</sup> SB 1193 (Chapter 393, Statutes of 2008) established the California Advanced Services Fund as a new public purpose program.

received. Of these numbers, six proposals were unchallenged and received approval for funding on November 21, 2008 via Resolution T-17182. Various parties challenged another sixteen (16) project proposals, contending that the areas included in the proposals were already served. On February 20, 2009, the Commission adopted two resolutions for five challenged unserved projects as follows: Resolution T-17187 approved Broadband Associates' Highway 299 Broadband Network Project and Resolution T-17195 approved four AT&T projects. On March 12, 2009, the Commission adopted Resolution T-17183 which approved Willits' Online's Covelo and Laytonville projects.

Mother Lode's application was one the 16 projects mentioned above with some of its proposed areas, challenged by existing broadband providers. In addition, another applicant submitted a proposal for some of the areas included in Mother Lode's proposal.

Communications Division (CD) has verified that the specific Census Block Group (CBG) covering the proposed areas qualify as "unserved area", as defined in Res. T-17143. Further details are presented in the Discussion Section of this resolution.

## **Notice/Protests**

The Census Block Group (CBG) list appeared by county on the Commission's CASF website page under "UNDERSERVED areas proposed to be served as of August 25, 2008: Census Block Groups (CBGs)." Of the 126 CBGs Mother Lode submitted, 103 CBGs were formally challenged by either existing service providers or other interested parties. Therefore, CD proceeded with a review and an analysis of these project areas to verify that they were indeed unserved as of the applicants' filing date.

## **Discussion**

CD has completed its review and analysis of the project areas included in Mother Lode's application. As a result, this Resolution conditionally adopts a total of \$2,771,341 in CASF funding support for the Mother Lode Broadband project. The project is described in detail in Appendix A.

For qualification purposes under the CASF program, unserved areas are defined as areas not served by any form of facilities-based broadband or where Internet connectivity is available only through dial-up service or satellite. CD reviewed this project's eligibility in the unserved review phase by analyzing required data which the applicants submitted. These data include, but are not limited to: proof of CPCN registration; descriptions of current and proposed broadband infrastructure, Geographic Information System (GIS) formatted Shapefiles<sup>2</sup> mapping the subject areas; assertion that the area is underserved; potential subscriber size and household incomes; project construction schedule; project budget; proposed pricing and commitment period for new subscribers; and, financial qualifications of the applicant.

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<sup>2</sup> A shapefile is a digital vector storage format for storing geometric location and associated attribute information. Shapes (points/lines/polygons) together with data attributes can create infinitely many representations about geographical data.

In addition, CD reviewed the Shapefiles submitted which mapped the broadband deployment proposed using United States 2000 Census data and the January, 2008, Broadband Task Force Report (BBTF) including its on-line maps. Comparisons of submitted maps to that of the BBTF verified the non-existence of broadband service or the existence of Broadband service with upload speeds less than 3 MBPS download and 1 MBPS upload in the identified areas.

Rapid Link, Inc., a national voice and data carrier and Mother Lode Internet (Mother Lode), a leading Internet Service Provider in the South/Central area of the region submitted its proposal for the Mother Lode Broadband project to provide wireless broadband services in portions of the Alpine, Amador, Calaveras, Tuolumne and Mariposa Counties. Mother Lode plans to leverage local broadband provider experience, support and presence by expanding a network of fixed wireless broadband services. The project will provide expanded backhaul to a regional network of primarily existing main towers linked via high capacity licensed spectrum which will feed a network of repeater towers focused to deliver broadband to these unserved areas. The network will have a broad coverage of 3,063 square miles and will be able to serve approximately 14,629 households at speeds of up to 11.9 Mega Bits per Second (MBPS) for both upload and download. The 40% CASF subsidy is \$2,771,341 of the total project cost of \$6,928,352.

Of the 126 CBGs Mother Lode has included in its proposal, existing service providers and/or other interested parties formally challenged 103 CBGs. The challenging parties asserted that parts of the CBGs in the proposed area already are served. CD requested that Mother Lode correct its application and only reflect the truly unserved CBGs in its proposed area.

On September 29, 2008, Mother Lode resubmitted its corrected application proposing to provide service to 103 CBGs in the unserved areas of Alpine, Amador, Calaveras, Tuolumne and Mariposa Counties. However, after additional analysis and review, CD established that an additional 55 CBGs are partially served, 31 CBGs are 100% served as indicated in the BBTF and 17 CBGs are 100% unserved. Mother Lode once again reviewed the 55 CBGs and made modifications to its application and resubmitted it to CD. In summary, CD determined that out of the 103 CBGs Mother Lode submitted, 72 CBGs covering the proposed areas of Alpine, Amador, Calaveras, Tuolumne and Mariposa Counties qualify as "unserved area", as defined in Resolution T-17143.

The Application Requirements and Guidelines on the awarding of CASF Funds<sup>3</sup> put forth the information required for each proposed broadband project filed including, but not limited to, each applicant's possession of a Certificate of Public Convenience and Necessity (CPCN) or a U-Number. Further, applicants who do not have a CPCN or U-number and are not registered wireless carriers may partner with or apply through a consortium, so long as the financial agent for the consortium is an entity with a CPCN or U-number. In this case, Mother Lode partnered with Telenational Communications Inc. (TNC), a telephone

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<sup>3</sup> Resolution T-17143

corporation which holds a valid CPCN authorized to provide interLATA and intraLATA services in California. CD investigated the application further and discovered that TNC was acquired by Rapid Link on May 3, 2006. Rapid Link, however, did not seek, pursuant to PU Code § 854(a) <sup>4</sup>, Commission approval for the acquisition of TNC. Accordingly, on February 25, 2009, Rapid Link filed a formal application, A.09-02-021, to acquire TNC. Since Rapid Link's Section 854 application is still to be pending before the Commission, CD recommends a conditional approval of the Mother Lode Broadband project pending final Commission approval of Rapid Link's application and Rapid Link's compliance with, if any, the decision in A.09-02-021. Further, CD recommends that Mother Lode Internet/Rapid Link Inc., notify and provide CD with a copy of the decision that approves Rapid Link's acquisition of TNC as well as proof of Rapid Link's compliance with the decision.

The Mother Lode Broadband Project was evaluated using the scoring criteria adopted in Resolution T-17143 vis-a-vis a proposal submitted by another applicant for some of the areas proposed by Mother Lode in its application. Of the two applicants for these unserved areas, Mother Lode scored the higher.

Mother Lode proposes to provide an average speed of up to 11.9 MBPS both download and upload which will be able to serve 14,629 households covering an area of approximately 3,063 sq. miles. Mother Lode plans to complete its project within 20 months. The Mother Lode Broadband Project is, therefore, recommended for conditional approval and award of CASF funding of \$2,771,341.

The Application Requirements and Guidelines on the awarding of CASF funds <sup>5</sup> provide that the execution of a Performance Bond is not required if 60% of the total project costs comes from the applicants' capital budget and is not obtained from outside financing sources. In its application, Mother Lode certified in writing that 60% of the total project costs will come from its existing capital budget. Therefore, we need not require Mother Lode to post a performance bond.

Mother Lode's application indicates that all proposed antennas will be mounted on existing facilities and no new towers will need to be constructed. Therefore, we conclude that the project will have no physical impact on the environment, and thus, is exempt from a California Environmental Quality Act (CEQA) review.

Mother Lode is required to comply with all other guidelines, requirements and conditions associated with the granting of CASF funds as specified in Resolution T-17143 including but not limited to, the submission of Form 477.

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<sup>4</sup> Public Utilities Code §854(a) states that "[n]o person or corporation, whether or not organized under the laws of this state, shall merge, acquire, or control either directly or indirectly any public utility organized and doing business in this state without first securing authorization to do so from the commission".

<sup>5</sup> Resolution T-17143

### Payments to CASF Recipients

Submission of invoices and payments to Mother Lode shall be made in accordance with Section IX of Appendix A of Resolution T-17143 and according to the guidelines and supporting documentation required in Resolution T-17143.

Since CASF funding is limited to entities with a Certificate of Public Convenience and Necessity (CPCN) that qualify as a “telephone corporation” as defined under P.U. Code §234 and wireless carriers registered with the Commission over which the Commission has jurisdiction, payment to Mother Lode shall essentially follow the process adopted for funds created under P.U. Code §270. The following table describes the timeline for processing CASF payments.

Event	Payment Cycle 1 (Day/Month)	Payment Cycle 2 (Day/Month)
Invoices due from CASF recipients to CD	5 <sup>th</sup> of Month 1	20 <sup>th</sup> of Month 1
Payment letters from CD to Information and Management Services Division (IMSD) <sup>6</sup>	On 19 <sup>th</sup> of Month 1	On 4 <sup>th</sup> of Month 2
Invoices submitted from IMSD to State’s Controller Office (SCO) for payments	20 <sup>th</sup> through 26 <sup>th</sup> of Month 1	5 <sup>th</sup> through 13 <sup>th</sup> of Month 2

Mother Lode may submit its invoices under Payment Cycle 1 or 2.

If any date in this payment schedule falls on a weekend or holiday, that date will be advanced to the next business day but the remaining dates in the payment schedule will remain unchanged. SCO requires 14 to 21 days to issue payment from the day that requests are received by SCO.

### Comments on Draft Resolution

In compliance with P.U. Code § 311(g), a notice letter was emailed on April 7, 2009 informing a) all applicants filing for unserved areas and b) parties on the service list of R.06-06-028 of the availability of the draft of this Resolution for public comments at the Commission's website <http://www.cpuc.ca.gov/static/documents/index.htm>. This letter also informed parties that the final conformed Resolution adopted by the Commission will be posted and will be available at this same website.

<sup>6</sup> The above schedule is contingent on the CASF recipient submitting clear, complete and error free invoices to CD. Additional time to process payments may be necessary if CD finds problems with the submitted invoice

Responses to timely filed comments will be addressed in this resolution.

## **Findings**

1. The California Advanced Services Fund (CASF) was implemented by Decision (D.) 07-12-054. The CASF was established as a two-year program that will provide matching funds of up to 40% of the total project costs for the deployment of broadband infrastructure in unserved and underserved areas in California.
2. Resolution T-17143, approved on June 12, 2008, adopts the application requirements and scoring criteria for the award of funds, a prescribed timeline for other filings and notifications including a projected Commission Meeting date for final approval of award(s). T-17143 directed interested applicants seeking funding for underserved projects to file their project proposals and funding requests on August 25, 2008.
3. Unserved areas are defined as areas those not served by any form of facilities-based broadband or where Internet connectivity is available only through dial-up or satellite service.
4. A list of census block groups (CBGs) appeared by county on the Commission's CASF website page under "UNSERVED areas proposed to be served as of July 24, 2008: Census Block Groups (CBGs)". Communications Division (CD) proceeded with its independent review and analysis of the areas proposed in this project to verify that they were unserved as of the applicants' filing date.
5. CD reviewed Rapid Link Inc. and Mother Lode Internet's (Mother Lode) Mother Lode Broadband Project eligibility in the unserved review phase by analyzing the required data submitted. These data include, but are not limited to: proof of CPCN registration; descriptions of current and proposed broadband infrastructure; geographic information system (GIS) formatted Shapefiles mapping the subject areas; assertion that the area is unserved; potential subscriber size and household incomes; project construction schedule; project budget; proposed pricing and commitment period for new subscribers; and, financial qualifications of the applicant.
6. Shapefiles, which mapped the broadband deployment, were reviewed by CD using sources including, but not limited to, the United States 2000 Census data and the January, 2008, Broadband Task Force Report and its available on-line maps. These maps helped to verify the existence of or non-existence of broadband service areas and broadband speeds, where available.
7. CD verified Mother Lode's project and, when necessary, requested additional information and/or meetings to clarify the project proposal.
8. After its review, CD determined that the Mother Lode Broadband Project application for unserved areas covering 72 CBGs as eligible to receive funding under CASF.
9. Mother Lode should not be required to post a performance bond for the projects listed above since 60% of its total project cost will be financed by the applicants through their capital budgets.

10. Mother Lode is exempt from the CEQA review since Mother Lode's application indicates that all the antennas will be mounted on existing facilities and no new towers will need to be constructed. Therefore, the project will have no physical impact on the environment.
11. On February 25, 2009, Rapid Link filed a formal application, Application (A.) 09-02-021 for the acquisition of Telenational Communications Inc. (TNC) because its acquisition of TNC on May 3, 2006 was never filed.
12. CD recommends a conditional approval of funding for the Mother Lode Broadband Project from CASF amounting to \$2,771,341 pending final Commission approval of Rapid Link's application and Rapid Link's compliance with, if any, to the decision in A.09-02-021.
13. CD recommends that Mother Lode Internet/Rapid Link Inc., notify and provide CD with a copy of the decision that approves Rapid Link's acquisition of TNC as well as proof of Rapid Link's compliance with the decision.
14. Mother Lode should comply with all other requirements and conditions such as, but not limited to, the submission of Form 477 associated with the granting of CASF funds as specified in Resolution T-17143.
15. A notice letter was emailed on April 7, 2009 informing a) all applicants filing for unserved areas and b) parties on the service list of R.06-06-028 of the availability of the draft of this Resolution for public comments at the Commission's website <http://www.cpuc.ca.gov/static/documents/index.htm>. This letter also informed parties that the final conformed Resolution adopted by the Commission will be posted and will be available at this same website.
16. The Commission finds CD's recommended conditional CASF award of \$2,771,341 for unserved areas for the Mother Lode Project, as summarized in Appendix A of this Resolution, reasonable and consistent with Commission orders and should be adopted.

**THEREFORE, IT IS ORDERED that:**

1. The California Advanced Services Fund (CASF) shall award \$2,771,341 pending final Commission approval of Rapid Link's application and Rapid Link's compliance with, if any, the decision in Application 09-02-021 (a formal application for the acquisition of Telenational Communications Inc. (TNC) by Rapid Link) to Rapid Link Inc., and Mother Lode Internet (Mother Lode) for the Mother Lode Broadband project for unserved areas, as described in the Discussion Section of this resolution.
2. Mother Lode Internet/Rapid Link Inc., shall notify and provide CD with a copy of the decision that approves Rapid Link's acquisition of TNC as well as proof of Rapid Link's compliance with the decision.

3. The program fund payment of \$2,771,341 for Mother Lode Broadband project shall be paid out of the CASF fund in accordance with the guidelines adopted in Resolution T-17143.
4. Mother Lode shall not be required to post a performance bond for its unserved broadband project.
5. Payments to Mother Lode shall be in accordance with Section IX of Appendix A of Resolution T-17143 and in accordance with the process defined in the "Payments to CASF Recipients" section of this Resolution.
6. Mother Lode shall be exempt from the CEQA review and requirements.
7. Mother Lode shall comply with all requirements and conditions associated with the CASF funds award such as but not limited to, the submission of Form 477 as specified in Resolution T-17143.

This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on May 7, 2009. The following Commissioners approved it:

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PAUL CLANON  
Executive Director

**APPENDIX A**  
**Resolution T-17197**  
**Mother Lode Project Key Information**

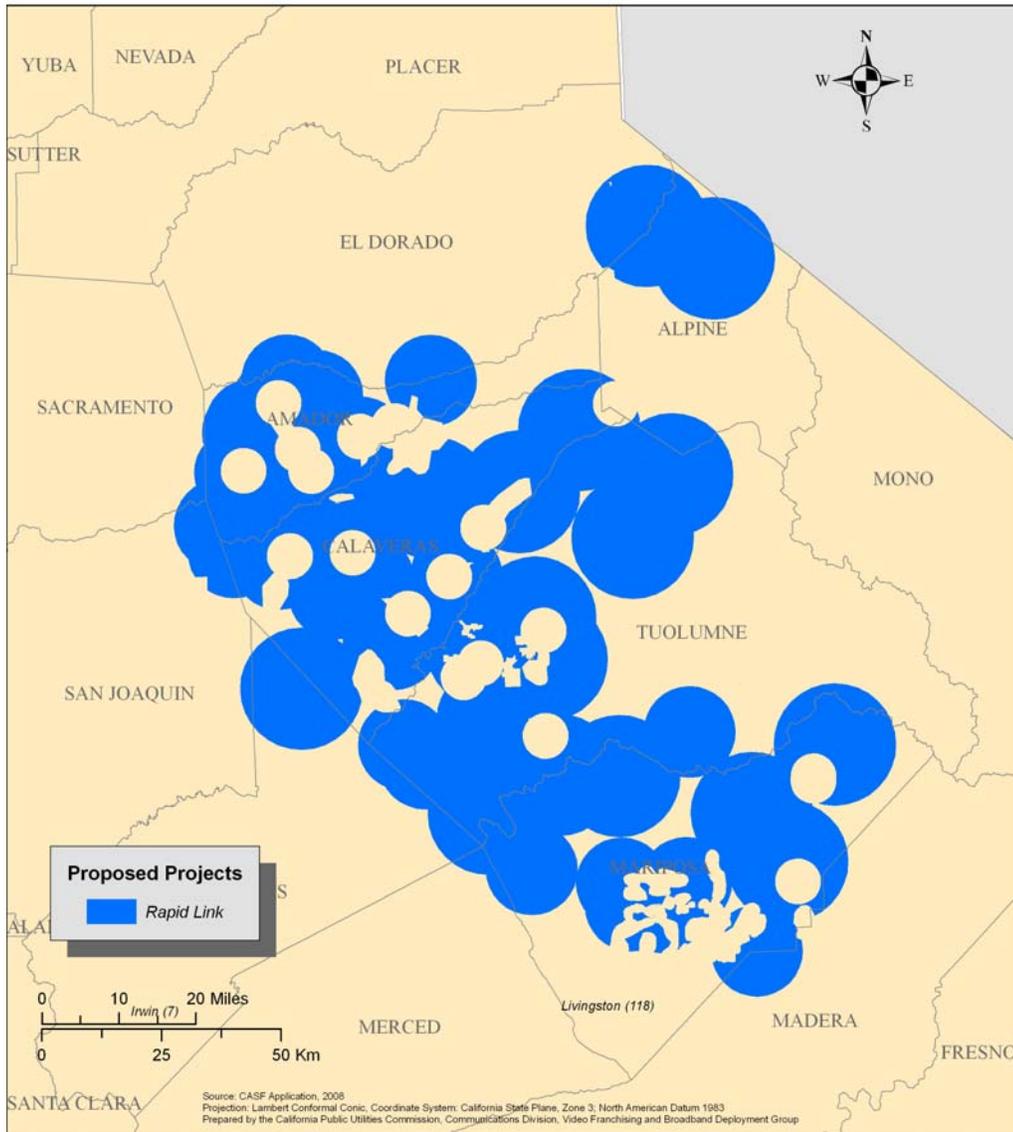
<b>1</b>	<b>Project ID</b>	<b>Rapid Link and Mother Lode Internet</b>	
<b>2</b>	<b>Project Name</b>	<b>Mother Lode Broadband</b>	
<b>3</b>	<b>Project Plan</b>	provide expanded backhaul to a regional network of primarily existing main towers linked via high capacity licensed spectrum which will feed a network of repeater towers focused to deliver broadband to these unserved areas	
<b>4</b>	<b>Project Size (in square miles)</b>	3,063	
<b>5</b>	<b>Download speed</b>	up to 11.9 MBPS	
<b>6</b>	<b>Upload speed</b>	up to 11.9 MBPS	
<b>7</b>	<b>Location</b>	Alpine, Amador, Calaveras, Tuolumne and Mariposa	
<b>a)</b>	<b>Community Name</b>		
<b>b)</b>	<b>CBGs/Household Income</b>	060030100001	\$37,857
		060030100002	\$47,188
		060050001006	\$41,250
		060050002001	\$47,083
		060050002002	\$48,750
		060050002003	\$46,316
		060050002004	\$48,500
		060050002005	\$32,708
		060050003011	\$36,442
		060050003014	\$77,847
		060050003021	\$41,842
		060050003022	\$44,375
		060050003023	\$41,862
		060050003024	\$49,271
		060050004021	\$45,726
		060050005001	\$34,554
		060050005002	\$56,364
		060050005003	\$55,197
		060090001102	\$51,250
		060090001105	\$46,711
		060090001201	\$41,375
		060090002101	\$45,069
		060090002102	\$43,594
		060090002103	\$49,833
		060090002104	\$55,662
		060090002203	\$39,250
		060090003001	\$39,716
		060090003002	\$36,250
		060090003004	\$38,333
		060090003005	\$30,469
		060090004003	\$28,966

		060090004004	\$38,500
		060090004005	\$41,417
		060090005001	\$43,797
		060090005003	\$61,042
		060090005006	\$47,202
		060430001001	\$30,938
		060430001002	\$35,875
		060430001005	\$43,417
		060430001006	\$36,750
		060430002001	\$46,630
		060430002002	\$21,979
		060430002003	\$25,375
		060430003001	\$36,705
		060430003004	\$39,375
		060430003005	\$35,720
		060430003006	\$27,273
		060430004001	\$41,836
		061090021001	\$39,875
		061090021002	\$38,529
		061090021003	\$37,596
		061090021006	\$42,917
		061090022001	\$52,344
		061090022002	\$60,972
		061090022003	\$31,000
		061090022005	\$43,750
		061090022006	\$34,219
		061090022007	\$49,286
		061090031004	\$49,821
		061090031005	\$24,167
		061090032004	\$57,500
		061090041004	\$39,489
		061090042001	\$27,292
		061090042002	\$41,864
		061090042003	\$21,607
		061090042004	\$26,250
		061090042005	\$90,583
		061090051001	\$36,382
		061090051005	\$40,574
		061090052011	\$52,375
		061090052012	\$35,750
		061090052013	\$39,306
c)	<i>ZIP Codes</i>	95646	
		96120	
		95629	
		95640	
		95642	
		95665	
		95666	

		95669	
		95675	
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		95327	
		95329	
		95335	
		95346	
		95364	
		95370	
		95379	
		95383	
8	<i>Estimated Potential Subscriber Size</i>		
a)	<i>Households</i>	14,629	
9	<i>Deployment Schedule (from Commission approval)</i>	20 months	
10	<i>Proposed Project Budget</i>		
	<i>CASF (40%)</i>	\$2,771,341	
	<i>CIAC</i>	(n/a)	

<i>Amount of CASF Funds Requested</i>	<b>\$2,771,341</b>	
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**APPENDIX A**  
**Resolution T-17197**  
**Mother Lode Broadband Project Shapefile**



## APPENDIX A Resolution T-17196 Mother Lode Broadband Statewide Map

